

REMARKS

These remarks follow the order of the outstanding Office Action. Reexamination is respectfully requested in light of the amendments to the claims and the following remarks.

Claim Rejection - 35 USC § 102(b)

'060 at column 4, beginning at line 39 and continuing through line 44 refers to a variety of different florescent and visible pH indicators. The Examiner relies upon this as a general teaching of all indicators. However, the device of '060 is far more limited as pointed out in column 4 beginning at line 54 and continuing through line 61. The indicators used by '060 are those which can be bound covalently or non-covalently to a support medium to retain them while keeping their pH indicating properties. Examples of such indicators are then given. Still further, column 4, beginning at line 63 and continuing through column 5, line 17 teaches that the indicators are bound to cellulose or nylon. The binding of the indicators to the support medium of '060 produces what is termed in that specification as "indicator membrane". Indicator membrane is then constructed, and autoclaved prior to punching into circles (see examples 1 and 2).

The critical difference between '060 and Applicant's claimed invention is that '060 in all cases teaches that the indicator medium is to be immobilized. '060 states as follows:

"The sensor comprises a solid composition or membrane, which we refer to as an attachment or support medium, with an indicator medium immobilized on or within it." (column 3, lines 40-43)

No place in '060 is it taught that the indicator is mobile, as being mobile in a fluid. In all cases, as outlined above, the teaching of '060 is that the indicator molecules must be bound covalently or non-covalently to a support medium. Therefore, there is no suggestion of the new claimed structure which is "a mobile indicator". Instead, '060 is a immobile indicator. Applicant's claims, therefore, clearly define over '060.

In the case of '060 and '769, the indicator medium is disclosed as being located inside of the vessel containing the growth medium. Therefore, the indicator medium must necessarily be immobilized or bound to the membranes, otherwise the indicator medium will be dispersed into the growth medium and inaccurate results will occur. The purpose of both disclosures is to retain the indicator medium close to or adjacent to the glass at the indicator medium location so that accurate measurements can be obtained. This is the reason that an immobilized indicator is required in both disclosures.

US Patent 5,858,769

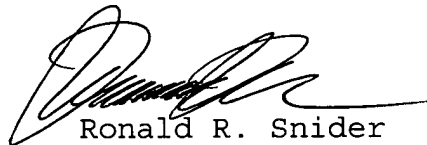
The rejection based upon the '769 patent is respectfully traversed for the same reasons as stated above with respect to the '060 patent. These two patents are by the same inventors, and contain the same disclosure with respect to the sensor. '769 in column 1, line 20 states that US Patent 4,945,060 to Turner is incorporated by reference. In '769, there is disclosure of detectors contained within the containers which contain sterile growth medium (see Summary of Invention, column 3, lines 25 - 40). Column 5, line 32 of '769, like '060, states that the medium is immobilized or within a membrane. Therefore, the immobilized medium of '769 does not anticipate or suggest the mobile indicator claimed by Applicant.

At column 6, beginning at line 34 and continuing through line 55, there is further disclosure of the CO₂ and pH sensors which are attached to the support medium either covalently or non-covalently (see column 6, lines 36 - 38).

Therefore, '769, like '060, teaches nothing more than indicator medium attached, not a mobile indicator as claimed.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance, and early action in accordance thereof is requested. In the event there is any reason why the application cannot be allowed in this current condition, it is respectfully requested that the Examiner contact the undersigned at the number listed below to resolve any problems by Interview or Examiner's Amendment.

Respectfully submitted,



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